United Nations A/59/896

General Assembly

Distr.: General
29 August 2005

Original: English

Fifty-ninth session
Agenda item 10
Report of the Secretary-General on the work of the Organization

Letter dated 8 August 2005 from the Permanent Representative of India to the United Nations addressed to the President of the General Assembly

Note: Previously issued as a letter from the Permanent Representative of India to the United Nations addressed to the President of the Security Council (S/2005/521).

05-46567 (E) 010905

United Nations A/59/897–S/2005/531

General Assembly
Security Council

Distr.: General
17 August 2005

Original: English

General Assembly
Fifty-ninth session
Agenda item 29
Question of Cyprus

Security Council
Sixtieth year

Letter dated 16 August 2005 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a letter dated 12 August 2005, addressed to you by Mr. Reşat Çağlar, Representative of the Turkish Republic of Northern Cyprus, forwarding the letter of Mr. Serdar R. Denktaş, Deputy Prime Minister and Minister for Foreign Affairs of the Turkish Republic of Northern Cyprus (see annex).

I should be grateful if the text of Mr. Denktaş's letter could be circulated as a document of the General Assembly, under agenda item 29, and of the Security Council.

(*Signed*) Baki **İlkin**
Ambassador
Permanent Representative

05-46410 (E) 220805

Annex to the letter dated 16 August 2005 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

I have the honour to convey herewith a letter dated 4 August 2005 addressed to you by Mr. Serdar R. Denktaş, Deputy Prime Minister and Minister for Foreign Affairs of the Turkish Republic of Northern Cyprus (see attachment).

(*Signed*) Reşat **Çağlar**
Representative
Turkish Republic of Northern Cyprus

Attachment

I have the honour to refer to your report of 27 May 2005 (S/2005/353) on the United Nations operation in Cyprus and the subsequent United Nations Security Council resolution 1604 (2005), which was adopted on 15 June 2005.

I wish to stress, at the outset, that an objective assessment of the situation on the ground as well as an impartial approach is evident in the general structure and content of your present report. Similarly, it is most promising that Security Council resolution 1604 (2005) reflects a fairly balanced stance in comparison to previous resolutions, particularly those adopted in the past couple of years. The following considerations are brought to your kind attention, without prejudice to our general satisfaction regarding the positive aspects of your report and Security Council resolution 1604 (2005).

We have observed with pleasure the references in paragraphs 2, 36 and 37 of your report, which reiterate in clear terms that the United Nations Peacekeeping Force in Cyprus (UNFICYP) is stationed and operates in Cyprus with the consent and cooperation of the Turkish Cypriot and the Greek Cypriot sides. I wish to convey, in this context, our firm commitment to full cooperation with UNFICYP as well as our agreement with the continuation of its activities, which undoubtedly contribute to the search for a comprehensive settlement of the Cyprus issue. While we regard the noting in resolution 1604 (2005) of the fact that that "UNFICYP enjoys good cooperation from both sides" a welcome development, this terminology is far from reflecting the realities on the ground. It is regrettable that the Security Council chose to disregard the aforementioned statements in your report and stressed that the "Government of Cyprus" agrees that "it is necessary to keep UNFICYP beyond 15 June 2005". This approach leads to the conclusion that only the agreement of the "Government of Cyprus" is necessary for the extension of the mandate of the United Nations Peacekeeping Force in Cyprus.

It is an established United Nations principle that peacekeeping in any area of the world can only be conducted with the consent and cooperation of all the concerned parties. It is in line with this United Nations principle that the views of Greek Cypriot and Turkish Cypriot sides as well as the three guarantor Powers are sought for the extension of UNFICYP's mandate. Moreover, the undeniable reality that UNFICYP functions in Cyprus with the consent and cooperation of the Turkish Cypriot side is well known to and accepted by the relevant United Nations authorities. We firmly believe, therefore, that the foregoing need to be reflected by the relevant United Nations organs in explicit language. In this respect, there is a shortcoming in paragraph 2 of your report where there is no mention of the fact that the review team also consulted the three guarantor Powers. It should also be stressed, in this context, that the "Government of Cyprus" to which reference is made in resolution 1604 (2005) is neither the legitimate successor of the 1960 Republic of Cyprus nor has the right or the jurisdiction to represent or act on behalf of the whole island.

There is no reference in paragraph 6 of your report of 27 May to your previous report on the mission of good offices dated 28 May 2004 (S/2004/437). We believe it will play into the hands of the Greek Cypriot side to portray you as distancing yourself from your report of 28 May 2004, given the fact that two references had been made to the said report in your previous report on UNFICYP. Moreover,

stressing the report of 28 May in connection with your good offices mission was particularly important as your references were previously overlooked by the Security Council. Nevertheless, it is most astonishing that the Council repeated its unbecoming reference to resolution 1251 (1999). We find it difficult to understand as to why the Council insists on emphasizing a past resolution while disregarding your report of 28 May 2004, which incorporated important observations on both the negotiating process and the referenda results on your comprehensive settlement plan on Cyprus. This approach does not contribute to the sound assessment of the recent developments and the shaping of future efforts towards a settlement.

Paragraph 7 of your report refers to developments pertaining to the accession process of Turkey to the European Union. I should stress that the importance of including such information in a technical report on the operations of UNFICYP eludes us. On the other hand, information of significant relevance is excluded in paragraph 9, which deals with the issue of missing persons. The fact that we, as the Turkish Cypriot side, have made two written representations to the United Nations in order to help bring about the full implementation of the provisions pertaining to the 1981 terms of reference of the Committee on Missing Persons should have been included in the said paragraph.

It needs to be noted that the joint exercises by the Turkish Cypriot and Turkish forces to which reference is made in paragraph 11 of your report is purely a training exercise that has been taking place for the past 30 years on a regular basis. The structure and the wording of paragraph 11 are most unbecoming as it culminates in the erroneous placement of a standard activity on the same level as the shooting of a Turkish Cypriot soldier by a member of the Greek Cypriot National Guard. Moreover, the Turkish Cypriot soldier involved is erroneously presented as a member of the Turkish forces. The inappropriate downgrading of the shooting incident, which carried serious provocative potential, does not encourage strict measures aimed at preventing future occurrences. The restraint displayed by the Turkish Cypriot side was the main factor preventing the escalation of tension between the Turkish Cypriot and Greek Cypriot soldiers stationed in close vicinity along the buffer-zone.

We welcome the recording of our lifting the restrictions on UNFICYP in both paragraph 15 of your report and in resolution 1604 (2005). We noted with disappointment, however, that the inappropriate practice of referring to the village of Akyar has continued both in your report and the Security Council resolution. I wish to reiterate, therefore, that the village of Akyar has no connection to the buffer-zone and does not fall within the scope of the mission of the United Nations Peacekeeping Force in Cyprus. It should also be noted that the UNFICYP personnel in Cyprus agreed upon visiting the area that there is no tangible measure that can be taken on the ground regarding the situation in Akyar following the commencement of mutual crossings in the island. It is most unbecoming, therefore, that this issue is kept on the agenda.

The terminology in paragraph 21 falls short of reflecting the preventive Greek Cypriot attitude regarding the crossing of commercial vehicles from North to South Cyprus. The relevant wording gives the wrong impression that the buses and taxis registered in the North are allowed to cross to South Cyprus on certain conditions. The truth of the matter is that the Greek Cypriot administration adopted a most insincere practice in this regard. While it argues that there are no restrictions on the

crossing of commercial vehicles, its refusal to accept driving licenses issues in North Cyprus stands as an effective impeding measure. It should have been clearly stated in the said paragraph that the Greek Cypriot side is hampering the crossing of commercial vehicles registered in the North to South Cyprus on "technical grounds".

It is regrettable that substantive information is missing in paragraphs 23 and 24. It is well known that the Turkish Cypriot side repeatedly called for cooperation on the murder of three Turkish Cypriots living in South Cyprus. It is also no secret that the Greek Cypriot authorities refused to share any information from the first day of investigations on this serious crime. Nevertheless, Turkish Cypriot police forces arrested eight suspects on credible grounds but were in need of forensic evidence for a solid case against the suspects. Despite our numerous representations and the good offices of UNFICYP, the Greek Cypriot authorities refused to hand over the necessary evidence on purely political grounds. The maximum pre-trial detention period was thus exhausted and our relevant authorities had no choice but to release the murder suspects. We regard the omitting of the foregoing facts as a serious shortcoming of paragraph 23.

The lack of official contacts and cooperation on humanitarian issues between the two sides are presented in a misleading manner in the aforementioned paragraphs. As the Turkish Cypriot side, we have repeatedly expressed our readiness to establish contacts at all levels and to cooperate on humanitarian issues with the Greek Cypriot side. We strongly believe that neither the ongoing political dispute nor the position of the parties should stand in the way of establishing cooperative relations to the benefit of both communities. The numerous calls of our President, Mr. Mehmet Ali Talat, to commence unofficial contacts with a view to discussing humanitarian and daily affairs have been widely reported, including in the Greek Cypriot press. In fact, his readiness in this regard has also been conveyed to the Greek Cypriot leader, Mr. Papadopoulos, through the good offices of UNFICYP. Unfortunately, the Greek Cypriot side failed to respond positively to our constructive initiatives. While we appreciate the inclusion of this all important subject in your present report, we deem it a substantive oversight that the Turkish Cypriot willingness to establish contacts with the Greek Cypriot side was not mentioned in the relevant paragraphs.

I wish to refer, before I conclude, to the apparent technical error in paragraph 27. The Turkish Cypriot school to which reference is made within the context of the Greek Cypriot pledge that it would be opened in South Cyprus is, in fact, an elementary school and not "a Turkish secondary school" as stated in paragraph 27.

(*Signed*) Serdar R. **Denktaş**
Deputy Prime Minister
and Minister for Foreign Affairs

United Nations A/59/898

General Assembly

Distr.: General
19 August 2005

Original: English

Fifty-ninth session
Agenda item 18
Election of judges of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Letter dated 18 August 2005 from the Permanent Representative of Liechtenstein to the United Nations addressed to the President of the General Assembly

I have the honour to refer to the upcoming election of ad litem judges of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, to be held on 24 August 2005 in the General Assembly. In the light of unduly protracted procedures at similar elections in the past, Liechtenstein would like to suggest that the procedure for the election of ad litem judges, as suggested by the Secretary-General in his memorandum (A/59/887), be applied by the General Assembly with a slight modification.

Given that the statute of the International Tribunal, as amended, provides in article 13 ter that "The candidates who receive an absolute majority of the votes of the States Members of the United Nations and of the non-member States maintaining permanent observer missions at United Nations Headquarters shall be declared elected", our past practice as reflected in paragraph 18 of the memorandum of the Secretary-General, can be questioned with regard to both its compatibility with the statute and its practicability. Paragraph 18 reads as follows:

> "18. If, in the first ballot, more than 27 candidates obtain an absolute majority of votes, a second ballot will be held on all candidates, and balloting will continue at the same meeting, if and as necessary, until 27 candidates, and no more, obtain an absolute majority. In any such case, each elector may vote, both in the first ballot and in any subsequent ballot, for 27 candidates."

If more than 27 candidates obtain an absolute majority of votes, that provision in effect leads to a situation where none of the candidates who receive an absolute majority of votes are declared elected. This is clearly in contravention of the wording of article 13 ter of the statute. Liechtenstein would therefore like to suggest that, in such a scenario, as many candidates as possible are declared elected, that is, those 27 candidates which receive the highest number of votes.

05-46619 (E) 220805

Furthermore, it should be noted that the statute requires that a list of at least 54 candidates is submitted to the General Assembly, which would make it very unlikely that more than 27 candidates receive an absolute majority. During these elections, however, States can only choose among 34 candidates or less, which makes it in fact rather likely that more than 27 will receive an absolute majority.

Therefore, we would like to suggest the following wording to replace paragraph 18 of the memorandum of the Secretary-General:

> "18. If, in the first ballot, more than 27 candidates obtain an absolute majority of votes, those 27 candidates having obtained the highest number of votes shall be considered elected. In the event of a tie for a remaining seat, there shall be a restricted ballot limited to those candidates who have obtained an equal number of votes."

We respectfully ask you to circulate this proposal as a document of the General Assembly. We hope that, despite the short time left until the elections, the Member States will find this suggestion useful and be able to agree to it.

(*Signed*) Christian **Wenaweser**
Ambassador
Permanent Representative